

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, MARCH 12, 2008

I. CALL TO ORDER/ROLL CALL

- Mayor Lin called the meeting to order at 7:00PM. Council members in attendance: Binnie, Ratzlaff, Bhardwaj, Fulkerson.
- City Staff in attendance: City Manager Steve Albright, City Clerk Gabriel Adams, and City Attorney Paul Hagen.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION

The Council adjourned to a brief Closed Session to discuss a Potential Litigation matter per government code, section 54954.5.

IV. RECONVENE TO OPEN SESSION

Mayor Lin had nothing to report from closed session.

V. APPROVAL OF AGENDA

Motion (Lin/Ratzlaff) to approve the agenda as submitted. Passed unanimously.

VI. APPROVAL OF MINUTES

February 13, 2008 cc

Motion (Binnie/Bhardwaj) to approve the minutes as corrected. Passed unanimously.

VII. COMMISSIONERS REPORTS

Binnie - Parks and Recreation, Streets

TPW: The title report ordered by the City for Parker Creek Drive is near completion.

Bhardwaj – Health & Human Services, Planning

Health: Announced the upcoming village keeper list of events.

Planning: Announced the highlights of the February 21 planning commission; BLM info kiosk, Marshall Design Review/Coastal Development Permit application, and General Plan update. Also noted that a new application process/permit reduction program for solar installations was discussed and may be forwarded to the Council for consideration.

Lin – Water, Town Hall – ***Nothing to report.***

Fulkerson – Public Safety

Announced that a test of the countywide Tsunami warning system will be conducted on March 26 between 10:15-10:45am.

Ratzlaff – Finance

The City Manager is working with the CPA to provide easy-to-read monthly financial reports. Also, a resolution amending check signing procedures is on tonight's agenda for consideration.

VIII. STAFF REPORTS

City Manager - Albright: Summarized the Manager's Report distributed with the meeting packet. Highlights included:

- City Clerk Gabriel Adams will serve as Acting City Manager in the Managers absence.
- Working with the CPA to develop a new financial reporting system. Reports will be presented to the council at the first regular monthly meeting.
- The City website is under construction. Staff is updating content, and invites input and suggestions from the public to improve the site.
- In an effort to improve Council meeting efficiency, the public is invited to meet with the manager prior to the meeting and discuss the agenda.

City Attorney – Hagen: ***Nothing to report***

Police Chief – Thrailkill – ***Absent***

IX. ITEMS FROM THE FLOOR

(Three (3) minute limit per Speaker unless Council approves request for extended time.)

Jim Cuthbertson – Trinidad

Commended the TPW for doing an exceptional job mowing, trimming, and raking the trails. He also noted his disapproval of a new sign that recently appeared on Wagner Street - on what appears to be City property. The sign is misleading. The city street extends 200 feet up to the utility pole.

Tom Noonan –Trinidad

Suggested that the City consider new revenue generating opportunities such as raising its Tourist Occupancy Tax 2% to match the county's 10% rate. He also suggested 1) annexing of a few miles of Patrick's Point drive (including the Trinidad Inn), and 2) allowing an outside-city resident sit on the City Council.

Axel Lindgren III – Chairman, Tsurai Ancestral Society

Visited the sacred site Tuesday to scope out 2 alder trees. An underground spring has compromised their stability, and the trees should be removed. Asked the Council when the Sebring drainage project would begin. City Attorney Hagen stated that the permitting has been achieved, and that Lindgren should check with the Contractor at this point.

Brad Twoomey – Trinidad

Complained about the light installed at the Lighthouse to illuminate the flag at night. He said that every few months it seems like something man-made is being placed within the naturally scenic viewshed surrounding Trinidad. The tourists visiting Trinidad are trying to escape this type of urban mentality where objects clutter the scenery. It should be a function of the City to protect the viewshed from unnecessary obstruction.

X. CONSENT AGENDA

1. Approval of Resolution 2008-04 Authorizing Check Signing Procedures.
2. Approval of Agreement Extension with Sequoia Voting Systems, Inc.
3. Approval of Ethics Training Procedure for City Council and Planning Commission Members.
4. Approval of Funding Allocation and Authorization to Proceed with Easement Work.
5. Approval of 2008 STIP Programming Request.

*Motion (Fulkerson/Binnie) to approve the consent agenda as submitted. **Passed unanimously.***

XI. AGENDA ITEMS

1. Discussion/Decision regarding report on potential Brown Act Violation Complaint.
Mayor Lin handed the gavel to Mayor Pro-Tem Binnie and excused himself from the discussion.

City Manager Steve Albright explained that at its first February meeting, the City Council directed the City Manager to investigate a complaint that was filed regarding a potential Brown Act violation. The investigation was conducted between February 13 and March 6, 2008 through a series of interviews, discussions, and on-line research. The results of the investigation, including research that was done on Brown Act complaints and/or violations in California, is included in the Investigation Report provided to the council as part of the meeting packet.

Albright's summary of findings included:

1. A Brown Act violation did occur.

2. The violation was in the form of a “leak” of information from a Closed Session that was held legally by the City Council to consider a personnel matter.
3. It could not be determined exactly when the “leak” of information occurred, how the information was transferred, nor exactly what was said.
4. The “leak” of information did not affect a decision that was previously or subsequently made by the Trinidad City Council.
5. The “leak” of information did not preclude the public's ability to participate in any decision made by the City Council.
6. From the interviews conducted, none of the parties involved intentionally violated the Brown Act, nor was there any long-term damage done to the person(s) who were affected.

City Attorney Hagen followed by giving a brief history of the Brown Act, its purpose, and components. He further distinguished between the 2 types of violations – criminal and civil, and insisted that the complaint at hand is nowhere near a criminal violation. He further added that he respectfully disagreed with the City Manager that a violation was committed. According to the Brown Act, a person may not disclose confidential information. According to the Managers report, conclusions were drawn, but information was not disclosed.

Public comment included:

Jim Cuthbertson - Trinidad

I don't know of any previous Mayors who held private business meetings at their house. All personnel matters should be held at City Hall.

Glenn Saunders – Trinidad

I was mayor for 13 years and never had meetings at my house. Neither did Tom Odom or George Collins. ☺

Sam Merryman – Moonstone Heights

It is inappropriate to conduct city business at home. Council members should act more professionally.

Dean Heyenga – Trinidad

Were these closed session meetings? City Manager Albright explained that these were 1 on 1 discussions with candidates, NOT closed session meetings. City Attorney Hagen insisted that the meetings in question WERE NOT closed sessions.

Richard Johnson – Trinidad

Suggested that the Council strongly consider attending Ethics training. He thanked the Staff for the clarity and rigor they provided regarding this issue.

Council comment included:

Binnie: It is unreasonable to restrict Councilmembers from conducting business out of their homes. What happened was unfortunate, and I agree with the City Attorney that a violation hasn't occurred. However, we should improve our conduct.

Fulkerson: Councilmembers DO understand the Brown Act. The act is incredibly strict and often impractical. It's unrealistic to assume that high stress situations that Councilmembers experience aren't discussed with their partners. This a minor deal. We all make mistakes. This is awkward and embarrassing, and we should be more careful. Perception is important.

Bhardwaj: Agreed with Fulkerson, and suggested all Councilmembers be required to take training in Ethics and the Brown Act.

Ratzlaff: Agreed with fellow Councilmembers and thanked Jim Cuthbertson for raising the issue.

*Motion (Ratzlaff/Fulkerson) to require all Councilmembers to complete Ethics and Brown Act training within 60 days of taking office. **Passed unanimously.***

2. Discussion/Decision on naming a Tax Study Committee.

City Manager Albright explained that qualified voters of the City of Trinidad will be asked if the 1% transaction and use tax rate in the City of Trinidad shall be extended for four years beginning January 1, 2009. The election will be held April 08, 2008. The City Council voted unanimously to place this question on the April 08 ballot to determine the voters wishes regarding the extension of the 1% sales tax.

Councilmember Fulkerson suggested that it will be helpful to have a Committee whose role it would be to help educate the public on the tax, how it is assessed, who pays the tax, and what can be done in cases where the tax is erroneously applied. The Committee should also be prepared to explain the need for this tax, the advantages of raising revenue through a sales/use tax, and the disadvantages of such a tax.

The Committee's charge also will be to review the benefits and challenges regarding this tax and report their findings to the public and the City Council on March 26, 2008 at the regular City Council session. Chamber of Commerce President, Richard Johnson has confirmed that he and Don Zemon are willing to assist, and they would join representative(s) from the Council and the City Manager.

Public comment included:

Sam Merryman – Trinidad

Argued that there are over 2200 residents in the surrounding communities who are inconvenienced by the tax increase. The Council should ensure that those individuals are represented on the committee. He disagrees with the tax increase and will continue to fight it.

Motion (Fulkerson/Binnie) to appoint Councilmembers Julie Fulkerson and Don Ratzlaff as members of the Ad Hoc Tax Study Committee, and instruct the City Manager to participate and support the Committee.

Passed unanimously.

3. Discussion/Decision on allocating funding and retaining a consultant for undergrounding of utilities.

Councilmember Binnie explained that at the November 28, 2007 meeting, the City Council approved the formation of a committee to explore the possibility of completing the undergrounding of utility lines in the City. After consultation with PG&E personnel, they recommended that we contact Mr. Robert Branz, the City Engineer in Belvedere, California, a small coastal community near San Francisco. The City of Belvedere recently completed an undergrounding project. Mr. Branz has also consulted with other communities regarding their undergrounding projects. He has been contacted and is interested in coming to Trinidad to consult with us about our undergrounding project.

The Undergrounding Committee would like to secure the services of Mr. Branz for the purpose of providing cost estimates, recommendations for funding sources, engineering requirements, etc. regarding the City's undergrounding project. In order to pay for Mr. Branz' travel expenses, one night's lodging, meals, and consulting fee, the Committee respectfully requests the Council authorize an expenditure of up to \$1,500 from the Gas Tax Fund to pay for professional consultation on this project.

There were no public comments.

Motion (Binnie/Fulkerson) to approve an expenditure of up to \$1500 to pay for consulting fees and travel expenses for Mr. Robert Branz regarding the utility lines undergrounding project for the City of Trinidad.

Passed unanimously.

4. Discussion/Decision on implementation actions for the Tsurai Management Plan.

City Manager Albright explained that In October 2008, after lengthy study and public input, the City Council approved the Tsurai Management Plan. The Plan was the result of a three year cooperative effort between the CA Coastal Conservancy, the City of Trinidad, the Tsurai Ancestral Society, and the Yurok Tribe.

One of the key recommendations for implementing the Plan was the need to make a decision regarding transfer of 12.5 acres of the study area that includes the Tsurai Village site. The Plan states that "steps should be taken to transfer allowable portions of the 12.5 acre TSA to the Yurok Tribe consistent with applicable law and the

terms of the settlement agreement signed by the City, the Coastal Conservancy, and the Tsurai Ancestral Society in April, 2005.”

The process of negotiating in good faith the transfer of the property is now underway in the form of an implementation committee. Representatives of the City, the Yurok Tribe, and the Tsurai Ancestral Society have met informally to discuss a workable process and time frame. The Committee set some preliminary objectives at its last meeting:

- 1) Complete the negotiations in time to make recommendations for consideration at the appropriate governing bodies by the end of 2008; and
- 2) Conduct multiple public meetings during the negotiations period (perhaps May and July, 2008) for the purpose of obtaining additional public input on the transfer itself and any conditions that may be imposed on the transfer (from either of the parties).

Tom Gates, Director of the Heritage Preservation Program from the Yurok Tribe, is in attendance and may be able to answer any questions the Council members may have.

Public comment included:

Dr. Tom Gates – Yurok Tribe

The Tribe wants to work as sensitively and cooperatively as possible with the City. We look forward to a successful negotiation.

Axel Lindgren III – Chairman, Tsurai Ancestral Society

It's time to bring some closure to this issue. This Council is open-minded, and their cooperation is refreshing. The Tsurai family is getting smaller, and we're worried that there may not be members here to speak for the Tribe in the future.

There were no further comments from the Council.

*Motion (Fulkerson/Bhardwaj) to appoint Mayor Chi-Wei Lin and Mayor Pro-Tem Binnie as the City Council's representatives on the implementation committee. **Passed unanimously.***

XII. COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

XIII. ADJOURNMENT

- **Council meeting ended at 10:35pm.**

Submitted by:

Approved by:

Gabriel Adams
City Clerk

Chi-Wei Lin
Mayor